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## Pesticides & Toxic Substances Law News for April 3, 2018

**Bloomberg  
Environment**

Environment & Energy

### Highlights

#### LEADING THE NEWS

##### [Pruitt's Family Stayed at Lobbyist's \\$50-A-Night Condo](#)

By Jennifer A. Dlouhy and Susan Decker

The Environmental Protection Agency says family members of Administrator Scott Pruitt also stayed in the Capitol Hill condominium partly owned by the wife of an energy lobbyist under his \$50-per-night lease, but that the arrangement doesn't violate ethics regulations.

#### TODAY'S NEWS

##### [Terrorist Risk Too Great to Share Chemical Plant Names: Judge \(1\)](#)

By Sam Pearson

The Department of Homeland Security won't have to hand over documents naming more than 3,000 chemical facilities that reduced their chemical holdings to avoid government oversight, a federal judge ruled March 31

##### [EPA Aims for Predictable Chemical Reviews, Director Says](#)

By Pat Rizzuto

The EPA wants to give chemical makers a more predictable, efficient, and clear process to get new products to market to address industry criticism that the agency is thwarting innovation.

## [Senate Prepares to Fill Trump Team's Management Gaps](#)

By Nancy Ognanovich

A push is underway to fill holes remaining in President Donald Trump's lineup of deputy department heads—the managers who oversee the day-to-day work of the federal government's 2 million civilian employees .

## [Environmental Enforcement Chief: Some Cases Best Left Out of Court](#)

[\(Corrected\)](#)

By David Schultz

The top environmental official at the Justice Department wants his attorneys to avoid taking enforcement cases to court when possible and encourage companies to self-report their problems.

## [Guantanamo Lawyers' Formaldehyde Claims Against U.S. Survive](#)

By Peter Hayes

Attorneys representing detainees at Guantanamo Bay detention camp may proceed with claims that the Defense Department exposed them and their staff to formaldehyde at the site.



## **Redefining EPA**

Overhauling an agency and its mission

<https://insideepa.com/agency-at-a-crossroads>

Inside EPA's **Risk Policy Report**, 04/03/2018

<https://insideepa.com/newsletters/risk-policy-report>

## **TSCA Tracker**

<http://insideepa.com/specials/tsca-tracker>

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## **Latest News**

No new stories today.

## **Daily Feed**

### **Ewire: Can Scott Pruitt 'survive' after condo scandal?**

In today's Ewire: Former New Jersey Gov. Chris Christie (R) says he is not sure how Scott Pruitt can “survive” as EPA chief after he secured a \$50-per-night lease on a Capitol Hill condo connected to an energy lobbyist.



**EPA****More questions about Pruitt's condo**

[Kevin Bogardus](#), E&E News reporter

Published: Monday, April 2, 2018



Ethics questions have swirled around U.S. EPA Administrator Scott Pruitt renting a Capitol Hill condo, pictured here, tied to a lobbyist whose firm's clients have business before the agency. Kevin Bogardus/E&E News

Cherry blossoms were in bloom this morning on the quiet Capitol Hill street where U.S. EPA Administrator Scott Pruitt once lived part of last year when in Washington.

The condo — in an ornate brick building, well-landscaped outside — where Pruitt bunked, however, has become the focus of new ethics questions surrounding the EPA chief. Pruitt signed an unusual lease to live there, having to pay rent only for the nights he slept there, and his former landlord's spouse is a lobbyist whose clients have business before the agency.

Former New Jersey Gov. Chris Christie (R) said yesterday on ABC News' "This Week" that Pruitt's time in the Trump administration may be coming to an end.

"I don't know how you survive this one, and if he has to go, it's because he never should have been there in the first place," Christie said.

Christie, who was replaced as head of President Trump's transition team by Vice President Mike Pence, said a better-run transition effort would have stopped such ethical issues from emerging.

"This was a brutally unprofessional transition," he said. "This was a transition that didn't vet people for this type of judgment issues, which could have been seen very easily in a lot of these people."

**'Market value'**

One question regarding Pruitt's stay in the condo, which he left last July, is whether he paid a fair price in rent.

On Friday evening, EPA shared a [memo](#) with reporters stressing that Pruitt had paid "market value" for the apartment. Signed by Kevin Minoli, a top career lawyer and the agency's designated ethics official, the memo was dated March 30 — the day after ABC News first broke the news Pruitt had lived in the lobbyist-linked condo.

"As EPA career ethics officials stated in a memo, Administrator Pruitt's housing arrangement for both himself and family was not a gift and the lease was consistent with federal ethics regulations," EPA

spokesman Jahan Wilcox said.

The memo said if Pruitt had used the space for 30 days, he would have paid \$1,500 in monthly rent, which was "reasonable market value." The lease also had two provisions, allowing Pruitt's immediate family to stay with him and not requiring payment when the condo "was not utilized," thus equaling \$50 per night.

"Neither of these two provisions render the rental cost under the lease as something other than market value. Therefore, entering into the lease was consistent with federal ethics regulations regarding gifts, and use of the property in accordance with the lease agreement did not constitute a gift as defined in those regulations," the memo said.

Pruitt's daughter stayed with the EPA chief in the condo while she clerked in the White House counsel's office this past summer. In its memo, EPA said that was allowed under the lease, but Vicki Hart, Pruitt's former landlord, has suggested otherwise.

"If other people were using the bedroom or the living quarters, I was never told, and I never gave him permission to do that," Hart told [ABC News](#).

In addition, \$50 a night would be a low fee to pay in the area of Pruitt's former condo, just a block from the Senate office buildings. Airbnb properties in the neighborhood start at about \$100.

## **'What landlord would do that?'**

The lease provision to pay by night has drawn questions, too.

Joe Sandler, a partner at Sandler Reiff Lamb Rosenstein & Birkenstock PC who advises clients on ethics law, told E&E News the EPA memo was "completely ridiculous."

"No one says, 'I'm going to lease something for 30 days, but you only have to pay me for the nights you stay there.' What landlord would do that?" said Sandler, who has represented Democratic candidates in the past. "He is getting something far below market value, which is against the ethics rules."

Another ethics lawyer had questions regarding the pay-by-night provision in Pruitt's lease.

"It doesn't seem you were able to lease it out to others since he had his possessions there," the lawyer said. "What is utilization there? Do you have to spend the night there? That seems to be a narrow reading of utilization of the facility. ... You can be utilizing the facility without having to sleep there."

If Pruitt was found to have paid below-market rent for the condo, he could run into trouble. Executive branch employees are not allowed to accept gifts from prohibited sources, like lobbyists or someone who has business interests with their agencies.

"He is prohibited under the Trump ethics pledge and the law from receiving gifts from prohibited sources, like a lobbyist. That is why it is important he pays fair market value under the lease," said the ethics lawyer.

Others are not following the EPA memo's reasoning on Pruitt's condo lease.

"He and his daughter took over a two-bedroom condo at a fraction of its value, subsidized by lobbyists," said Craig Holman, government affairs lobbyist for Public Citizen, who has asked in a [letter](#) that the EPA inspector general investigate the matter.

Steven Hart, Vicki Hart's husband, is chairman and CEO of Williams & Jensen PLLC, which reported lobbying EPA in 2017 on behalf of at least two of its clients, OGE Energy Corp. and Owens-Illinois Inc. Hart told E&E News that he doesn't lobby the agency and has had no lobbying contact with EPA in 2017 or 2018 ([Greenwire](#), March 30).

EPA has had to pay expenses related to the condo, too.

*The Washington Post* [reported](#) Friday that the agency reimbursed the condo association \$2,460 after Pruitt's security detail broke through the door last March when guards couldn't initially contact the EPA chief.

Pruitt's time in the condo is also drawing interest elsewhere. Washington's Department of Consumer and Regulatory Affairs [tweeted](#) Friday that it would "conduct an investigation" to see whether the property had the appropriate license to house guests per night.

## **Fundraisers**

The condo where Pruitt stayed is also a frequent political fundraising spot, including hosting several events for Republican lawmakers during the EPA chief's time there, according to fundraiser invitations compiled by the Sunlight Foundation, a transparency watchdog group. EPA calendar records show Pruitt was out of town for some of the fundraisers but not for others.

EPA press officials didn't respond to questions from E&E News for this story, including whether Pruitt appeared at any of the condo's fundraisers.

Showing up at a fundraiser wouldn't be an issue for Pruitt, however, as long as he wasn't asking for

contributions or using his official position to boost a campaign. The ethics lawyer said the EPA chief would just have to be "a wallflower" at the events.

Sandler cited the Hatch Act, which forbids federal employees from engaging in politics on government time.

"He cannot solicit political contributions. He cannot be on a host committee," Sandler said. "He could attend a fundraiser, though. That's not a violation of the rules. The Hatch Act is what applies here." Pruitt has backed out of fundraisers before as EPA chief. Pruitt was scheduled to be the Oklahoma Republican Party gala's keynote speaker last year but skipped the event after an [invitation](#) made note of his status as administrator ([Greenwire](#), April 27, 2017).

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